WALL, ADMINISTRATRIX OF WALL, v. CHESAPEAKE & OHIO RAILWAY COMPANY.

ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

No. 237. Argued March 21, 1921.—Decided April 11, 1921.

A federal question which could have been raised before but was first raised in the state Supreme Court by a petition for rehearing, which that court merely overruled, does not confer jurisdiction on this court.

Writ of error to review 290 Illinois, 227, dismissed.

THE case is stated in the opinion.

Mr. C. Paul Tallmadge, with whom *Mr. Almon W. Bulkley* and *Mr. Clair E. Moss* were on the brief, for plaintiff in error.

Mr. Worth E. Caylor for defendant in error.

MR. JUSTICE MCREYNOLDS delivered the opinion of the court.

An Illinois statute of 1903 amended the Act of 1853 which gave a right of action for wrongful death by adding thereto—"*Provided further*, that no action shall be brought or prosecuted in this State, to recover damages for a death occurring outside of this State." Our jurisdiction is invoked upon the theory that validity of the amending act was challenged below because of conflict with the Federal Constitution. But the point was not raised prior to the petition to the Supreme Court for a rehearing which was overruled without more. 290 Illinois, 227. It could have been presented earlier. According to the well established rule we may not now consider it; and the writ of error must be dismissed. *Godchaux Co.* v. *Estopinal*, 251 U. S. 179.

Dismissed.